

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

SAMUEL MENDEZ,	)	
	)	
Plaintiff,	)	
	)	
v.	)	C.A. No. 1:05 – CV – 00035
	)	(Judge McLaughlin)
PENNSYLVANIA DEPT. OF	)	
CORRECTIONS, PRISON HEALTH	)	<b>ELECTRONICALLY FILED</b>
SERVICES, INC., DR. MARK BAKER and	)	<b>PLEADING</b>
DR. FRAIDER,	)	
	)	
Defendants.	)	

**REPLY BRIEF OF DEFENDANT DR. FRAIDER IN SUPPORT OF MOTION TO  
DISMISS**

AND NOW, comes the defendant, Dr. Fraider, by and through his attorneys,  
Knox McLaughlin Gornall & Sennett, P.C., and files this Reply Brief in Support of his Motion to  
Dismiss as follows:

**I. Federal Rule of Civil Procedure 11 provides that motions need only be signed, not  
verified.**

In his response to Dr. Fraider's Motion to Dismiss, Mr. Mendez has argued that  
this Motion should be denied because it was not verified pursuant to 28 U.S.C. § 1746. This  
argument is incorrect. Federal Rule of Civil Procedure 11 provides, "Every pleading, written  
motion, and other paper shall be signed by at least one attorney of record in the attorney's  
individual name or, if the party is not represented by an attorney, shall be signed by the party."  
Pursuant to this Rule, motions need not be verified or otherwise sworn to under oath. Frank R.  
Jelleff, Inc. v. Braden, 233 F.2d 671, 675 (D.C. Cir. 1956) ("Rule 11, Federal Rules of Civil  
Procedure, with certain exceptions, does away with the need for verification."). Thus, 28 U.S.C.  
§ 1746, dealing with ascribing the penalties of perjury to unsworn declarations when such

declarations are required, is inapplicable to Dr. Fraider's Motion to Dismiss.

For these reasons, and the reasons identified in Dr. Fraider's Motion to Dismiss and Brief in Support therefore, Dr. Fraider respectfully requests that this Court dismiss Mr. Mendez's Complaint.

Respectfully submitted,

KNOX McLAUGHLIN GORNALL &  
SENNETT, P.C.

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